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Wednesday, 16 May 2012, 11 a.m.

New York

President:	Mr. Mehdiyev	(Azerbaijan)
Members:	China	Mr. Wang Min
	Colombia	Mr. Osorio
	France	Mr. Briens
	Germany	Mr. Eick
	Guatemala	Mr. Morales
	India	Mr. Kumar
	Morocco	Mr. Loulichki
	Pakistan	Mr. Tarar
	Portugal	Mr. Cabral
	Russian Federation	Mr. Karev
	South Africa	Mr. Mashabane
	Togo	Mr. Menan
	United Kingdom of Great Britain and Northern Ireland	Mr. Tatham
	United States of America	Ms. Rice

Agenda

The situation in Libya

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The meeting was called to order at 11.20 a.m.

Adoption of the agenda

The agenda was adopted.

The situation in Libya

The President: In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representative of Libya to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court, to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

I now give the floor to Mr. Moreno-Ocampo.

Mr. Moreno-Ocampo: It is my honour to present my third briefing to the Security Council on the activities of the Office of the Prosecutor of the International Criminal Court on the situation in Libya in furtherance of resolution 1970 (2011).

At the meeting when I first briefed the Council (see S/PV.6528), I emphasized the importance of the Council's consensus adoption of resolution 1970 (2011) and announced that we would request arrest warrants in subsequent weeks. That significant consensus greatly enhanced the cooperation my Office has received and allowed it to present a first case in the space of a few months.

When I briefed the Council for the second time (see S/PV.6647), we explained that the arrest warrants issued by the judges on 27 June detailed the crimes committed against civilians in Tripoli and other areas under the control of Al-Qadhafi. The judges concluded that in order to stop the crimes and protect civilians it was necessary to arrest the three individuals identified as the most responsible: Muammar Al-Qadhafi, Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi. The Office informed the Libyan authorities that, should they decide to prosecute the same individuals for the same crimes under investigation by the International Criminal Court (ICC), they should submit an admissibility challenge that would be decided by the ICC judges.

Today, I inform the Council that the Libyan authorities have arrested Saif Al-Islam Al-Qadhafi and presented such a challenge. The application was filed on 1 May and notes that, on 8 January 2012, the Libyan Prosecutor-General commenced an investigation of serious crimes, which include murder and rape, allegedly committed by Saif Al-Islam Al-Qadhafi during the 2011 revolution, including in the period between 15 and 28 February 2011. The filing also states that the Libyan Government is committed to attaining the highest international standards both for the conduct of its investigations and any eventual trials.

Libyan authorities also said that Saif Al-Islam has been kept in adequate conditions of detention, provided with sufficient and good quality food, and given access to the ICC and the option of retaining a domestic lawyer of his choosing. He has also received visits from the International Committee of the Red Cross, non-governmental organizations and family members, been provided with proper medical and dental care, and not been subject to physical abuse. That is what the Libyan Government presented to the judges.

Following the submission of the Libyan admissibility challenge, the Pre-Trial Chamber requested observations from different parties to the proceedings, as well as from the Security Council. Rule 59 of the ICC rules of procedure and evidence provides that those who have referred a situation, in this case the Security Council, must be notified of the challenge and may in response make representation on the jurisdictional challenges. The Registry has transmitted the notification through a note verbale to the Secretary-General.

This is the first time in the brief history of the International Criminal Court that a State has requested jurisdiction to conduct a national investigation against the same individual and for the same incidents under investigation by the International Criminal Court. The challenge goes to the heart of the system of justice established in 1998 by the Rome Statute. National States have the primary obligation to conduct proceedings and the International Criminal Court intervention shall be complementary. The Prosecution will present its observations on this admissibility challenge, as requested by the Pre-Trial Chamber, on 4 June.

Let me be clear. There are no doubts on the legal principles. The Rome Statute is based on the primacy of national proceedings. As mentioned on numerous occasions in relation to Darfur and other situations, the

Office will not evaluate the Libyan judicial system as a whole. The Office will check the factual situation in accordance with the Statute's requirements, which include the intervention of an independent and impartial judiciary. The Security Council may decide to present observations, but this is a judicial issue that will be decided by the judges of the Pre-Trial Chamber.

Abdullah Al-Senussi was also arrested on 17 March 2012 by Mauritanian authorities. He is subject to extradition requests from France and Libya, as well as a request for surrender from the International Criminal Court. Mauritania shall decide.

My Office continues to collect evidence in relation to a second case in Libya on gender crimes committed against men and women alike. The United Nations Commission of Inquiry's findings confirmed the commission of those crimes. My Office is mindful of the sensitivity surrounding rape in Libya and has adopted a strategy to limit the exposure of victims by focusing on obtaining evidence from doctors and soldiers. The investigation is progressing.

The report of the Commission of Inquiry issued on 2 March 2012 (A/HRC/17/44) presents a comprehensive view of the crimes committed in Libya. There are thousands of allegations of crimes committed by Al-Qadhafi forces and thousands of individuals allegedly involved in such crimes who are in detention. Many of them are still not under the jurisdiction of the national authorities and allegedly subjected to mistreatment or torture by rebel forces. There are also allegations of crimes committed against civilians in Tawergha, and questions remain to be answered about the circumstances of the death of Muammar Al-Qadhafi.

Additionally, the United Nations Commission of Inquiry found that NATO did not deliberately target civilians in Libya. Of a total of 25,944 air strikes and 7,642 air-to-surface weapons employed, the Commission cited evidence with respect to five air strikes that reportedly produced civilian casualties. The Office of the Prosecutor takes due note of the Commission of Inquiry's findings. The Office has no jurisdiction to evaluate the proper scope of the NATO mandate in relation with resolution 1973 (2011), but the Office is requesting further information about those five incidents identified by the Commission of Inquiry.

The Government of Libya has committed to a comprehensive strategy to address all crimes and end impunity in Libya. While the Government faces challenges on many fronts, that comprehensive strategy must remain a priority if the Government is to show that impunity will no longer be tolerated. The strategy must address as a priority the transfer to the central authorities and the screening of thousands of detainees, the investigation of whether allegations of crimes by those detainees where warranted, measures to ensure justice for the victims and the release of those against whom there is no basis for investigation.

Allow me to share with the Council a personal experience I had when I visited Tripoli. I was in the lobby of my hotel and a man approached me and showed me his nine-year-old son. He said that he had been exposed on television holding a flag of the rebellion, and then the Al-Qadhafi forces targeted him, captured him and raped him in a tank. He was able to trace the perpetrator, who was arrested. That is why I find it relevant to tell this story. It was one of the many thousands of cases that the authorities had to deal with. But the authorities released the man, because there was no evidence and no witnesses against him. The father asked me what he should do. He had weapons; should he kill the man? But he said he did not want to be a killer. He only wanted justice for his son. This was just one example of the thousands of similar problems that Libya will have to face in the coming months.

At the same time, all unofficial and unacknowledged detention centres should be dismantled and all possible steps taken to curb mistreatment or torture. The Government of Libya has expressed its commitment to conducting investigations and prosecutions to address the most serious crimes committed by all sides. The Government of Libya has adopted a transitional justice law creating a fact-finding and a reconciliation commission that could contribute to strengthening the rule of law in the country.

My Office will fulfil its mandate to investigate those who bear the greatest responsibility for the most serious crimes under the jurisdiction of the International Criminal Court, while respecting genuine national proceedings. The Office will monitor Libya's national proceedings closely. My Office is also gathering information about the activities outside Libya of high-level Al-Qadhafi officials who were allegedly involved in Rome Statute crimes and who reportedly continue to seek to destabilize the situation in Libya.

I would like to conclude by emphasizing again the importance of the adoption by consensus of resolution 1970 (2011), which defined the need to do justice in Libya to ensure peace and security. Such consensus was also expressed during my previous briefings and in the recently adopted resolution 2040 (2012), which states that the Council is

> "[l]ooking forward to a future for Libya based on national reconciliation, justice, respect for human rights and the rule of law" (*resolution 2040 (2012), fourth preambular paragraph*).

This commitment to justice and the rule of law plays a crucial role in the current post-conflict situation; it provides a framework for the national authorities to act. Recently, during my April visit to Tripoli and Misrata, members of the National Transitional Council and of the Libyan public expressed their deep appreciation for the decisive intervention of the Security Council and the International Criminal Court. They started the rebellion, requesting justice for the crimes committed in Abu Salim prison on 29 June 1996, because they believed that, under the Al-Qadhafi regime, there would be no justice in Libya. Now, the Government has expressed both its gratitude and its conviction that it should seize this historical moment to provide justice for all Libyan victims. They believe in that possibility.

My Office remains committed to working with the Government of Libya and with the Council to maintain this common effort and to ensure that justice for all of the victims of Libya is achieved.

The President: I thank Mr. Moreno-Ocampo for his briefing.

I shall now give the floor to those members of the Council who wish to make statements.

Mr. Tarar (Pakistan): Let me begin by thanking Mr. Moreno-Ocampo for his briefing today. We have taken note of his third report to the Security Council, submitted pursuant to paragraph 7 of resolution 1970 (2011).

At the outset, I should like to mention that Pakistan is not a signatory to the Rome Statute or a member of the International Criminal Court (ICC). However, we acknowledge the rights and obligations of the States members of the ICC.

The situation has evolved in recent months. The two remaining individuals for whom the Court had issued warrants of arrest have been apprehended. We have also noted the admissibility challenge filed by the Government of Libya regarding one case under article 19.2(b) of the Rome Statute. We take note of the desire of the Libyan authorities that the two individuals should be tried by Libyan courts.

The Pakistan delegation has also noted that the Prosecutor has implemented article 19.7 of the Rome Statute by suspending the investigation into Mr. Saif Al-Islam Al-Qadhafi activities until such time as the Court makes a determination on the issue of admissibility. We also take note of the fact that, in accordance with the principle of complementarity, the Rome Statute clearly establishes that the International Criminal Court is meant to be complementary to national jurisdictions and that primacy is to be given to national action. That point was also made by the Prosecutor in his briefing today.

We therefore hope that the request of the Libyan authorities to investigate and try these individuals will be considered positively. We look forward to a decision of the judges of the Pre-Trial Chamber on the admissibility of the case before the ICC. In case the trials of these individuals are conducted in Libya, the Libyan authorities must guarantee that their legal rights will be protected and that due process of law will be respected. As regards investigations initiated by the Court concerning other alleged crimes committed in Libya, we expect that the Prosecutor will conduct thorough and impartial investigations.

Let me conclude by recalling that the overall objective of the Council and the international community is to promote durable peace and stability in Libya in the best interests of the Libyan people.

Ms. Rice (United States of America): We would like to thank the Prosecutor of the International Criminal Court (ICC) for his briefing on the work of his Office and actions taken pursuant to resolution 1970 (2011).

As we have consistently noted, resolution 1970 (2011) and its referral of the situation in Libya to the International Criminal Court represented an historic milestone in the fight against impunity. The Security Council's unanimous decision to refer the situation underscored the importance of the role of justice and accountability in the resolution of conflicts and

maintenance of international peace and security. The referral has served to keep accountability and the rule of law as key elements of Libya's transition to a peaceful and democratic future.

We are pleased with the Prosecutor's report that his Office has received a high degree of cooperation from a variety of States and other actors in response to requests for assistance from the ICC. As the Prosecutor described in his briefing, Libya recently filed an admissibility challenge with the Court on the grounds that it is actively investigating Saif Al-Islam Al-Qadhafi for the same and different crimes as the ICC. Libya has also detailed the steps it has taken to conduct that investigation and has stated its commitment to adhering to international standards in the process.

This is an important moment, both for Libya and for the Court. The Rome Statute of the ICC is predicated on a system of complementary justice and contains provisions to deal with situations in which a State with jurisdiction wishes to pursue charges itself. In this regard, we are encouraged by the Prosecutor's report of the ongoing cooperation his Office has received from Libya. That having been said, as the Prosecutor notes, ultimately it will be for the judges to decide whether to defer to Libyan proceedings.

As the ICC proceedings move forward, we will continue to encourage the Government of Libya to maintain its cooperation with the Court and to adhere to its international obligations, including under resolution 1970 (2011). In addition, we continue to emphasize that it is critical that Libya take all necessary steps to ensure that the detention of and any further domestic proceedings against Saif Al-Islam Al-Qadhafi fully comply with Libya's international obligations.

Moreover, there is much work to be done domestically in Libya not only to account for the grave crimes committed in the past, but also to ensure a functioning justice system for the future. It is vital that Libya build a fair and credible criminal justice system that guarantees humane treatment and due process and conforms to Libya's international human rights obligations.

We agree with the Prosecutor that the Government of Libya faces critical challenges in assuming custody over the thousands of detainees that continue to be held by militias or local authorities, and in arranging for their expeditious release or the adjudication of their cases. The international community should respond to the needs of the Libyan Government as it approaches that significant administrative, logistical and judicial task.

We are deeply concerned by the patterns of rape documented by the International Commission of Inquiry, as highlighted in the Prosecutor's report. For the sake of the individual victims and in order to achieve a lasting and inclusive peace in Libya, sexual and gender-based violent crimes must not go unpunished. It will be important to ensure that there is accountability for violations and abuses of applicable laws committed in Libya by all sides, including for alleged attacks committed against civilians for their perceived loyalties to the Al-Qadhafi regime. Impunity for such crimes cannot be reconciled with respect for human rights and the rule of law.

Independent and impartial investigations of all alleged crimes will be a critical part of the effort to create an inclusive, democratic State in which all Libyans, of all backgrounds, have a future and an opportunity to participate in the rebuilding of their country. We are pleased to hear that the Government is working on a comprehensive strategy to address those issues, and we support the Ministry of Justice's expressed commitment to justice-sector reforms. We welcome the Government of Libya's statements in its submission to the ICC that it is receptive to assistance and support from the international community in that important work. We are working with the United Nations Support Mission in Libya and the international community to assist the Libyan authorities in addressing those justice-sector reform goals.

Mr. Karev (Russian Federation) (*spoke in Russian*): We would like to thank Mr. Moreno-Ocampo for his briefing and his third report on the situation in Libya pursuant to resolution 1970 (2011).

We support the efforts of the International Criminal Court (ICC) to investigate all those who participated in illegal acts during the events in Libya. There is sufficient information to show that crimes were committed both by persons from the Al-Qadhafi regime and by rebels. However, we have not yet heard of any prosecutions of Al-Qadhafi opponents, including those involved in exacting revenge against the former Libyan leader. Questions also remain with regard to possible crimes committed by senior officials

of States involved in the NATO-led operation. All cases of disproportionate or indiscriminate use of force during the conflict leading to civilian casualties should be investigated.

The Prosecutor's remit includes determining whether any crimes were committed by any of the parties to the conflict, so as to ascertain whether there are indications of criminal acts such as crimes against humanity and war crimes. In that context, we deem it important to continue to evaluate the data received from the Human Rights Council's Commission of Inquiry, non-governmental organizations and other quarters so as to look into the future work of the International Criminal Court based on resolution 1970 (2011).

We take note of the expressed desire of Libyan authorities to prosecute Saif Al-Islam Al-Qadhafi, including assurances of the commitment of Libya's Government to the highest standards of justice. We believe that prosecuting the most serious crimes under international law is first and foremost the responsibility of the particular State concerned. The jurisdiction of the ICC complements, but does not replace, national jurisdiction.

It is also clear that Governments are not always in a position to tackle this on their own. One particular obstacle to doing so could be the absence in a country of a viable judicial system functioning in line with international standards. In this case, however, the primary issue is whether Libyan authorities are taking real steps to investigate the crimes committed. We are seriously concerned about reports from the country of the aftershocks of the conflict resulting in violence and additional crimes being committed.

We once again underscore the importance of upholding the appropriate legal guarantees when meting out justice in the post-conflict stage. In our opinion, the ICC must facilitate the implementation of that. We are closely following the work of the ICC in that area.

Mr. Cabral (Portugal): I also wish to thank Mr. Moreno-Ocampo, Prosecutor of the International Criminal Court (ICC) for his report and for comprehensive briefing today. I want also to commend him for the work under way and for the efforts that his Office is undertaking to establish the truth and investigate all facts and evidence relevant to assessing criminal responsibility under the Rome Statute.

In that regard, we welcome the close cooperation that the Prosecutor's Office continues to benefit from the Office of the United Nations High Commissioner for Human Rights, as well as the synergy between the Office and the United Nations Commission of Inquiry, as stressed in the Prosecutor's report. We also welcome the contacts that the Office continues to maintain with Libyan authorities, the Government's expressed support to the Court and the acknowledgement of the positive role that the ICC plays in preventing further violence in the country.

Portugal stresses the importance of accountability and the need to fight impunity for serious violations of human rights. Those are universal goals that guide the United Nations and are at the core of the international community's concerns.

We thank the Prosecutor for his update on the cases of Muammar Al-Qadhafi, Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi. The information provided highlights the procedural steps undertaken to bring to justice the last two accused and the various contacts between the Office and Libyan authorities, as well as with other relevant entities, to ensure that they will be brought to trial. We shall follow closely future developments on those procedures, bearing in mind the important role that the Statute confers upon the Court in deciding the admissibility of the case against Saif Al-Islam Al-Qadhafi following the procedural challenge filed by the Libyan Government. We fully trust the Court in its evaluation of the situation in order to make sure that the trial is undertaken in full compliance with international standards. Likewise, we have the same expectation concerning the case against the other accused and the need for his prompt presentation for trial.

We also thank the Prosecutor for the information provided on the ongoing investigations. We look forward to further developments concerning the investigation of gender crimes and the two patterns of rape identified in the report (A/HRC/17/44) of the Commission of Inquiry. In that respect, we appreciate the concern of the Office in ensuring the protection of victims during its investigative efforts, thus preventing situations where victims could be further victimized through exposure and retaliation.

The report gives us a disturbing account of other serious violations identified in the Commission of Inquiry's report as having been committed in Libya,

during and after conflict, which are now under the scrutiny of the Prosecutor's investigation. Violations of human rights and international humanitarian law are violations irrespective of whoever may be found responsible for them. Acts of retaliation are inadmissible, and every person has the right to a fair trial. Cases of arbitrary arrests and enforced disappearances must stop and be accounted for. The same applies with regard to acts of retaliation against civilians believed to be Al-Qadhafi loyalists, such as suggested by the actions against Tawerghan civilians identified in the report. Those are serious findings that, if proven, must be accounted for. Under the ICC's jurisdiction, no amnesty is possible for war crimes and crimes against humanity.

In conclusion, we look forward to a full and complete investigation of allegations of all serious crimes committed in Libya. We encourage the Prosecutor and his Office to continue their efforts, in cooperation with Libyan authorities, the Office of the United Nations High Commissioner for Human Rights and all relevant entities in order to identify those responsible for such crimes and make sure that they are brought to trial, as we believe that justice is the cornerstone of peaceful and democratic societies and, thus, a fundamental element of Libya's institution-building.

Mr. Morales (Guatemala) (*spoke in Spanish*): We thank Mr. Moreno-Ocampo, Prosecutor of the International Criminal Court (ICC), for introducing his third report to the Council.

We welcome the progress made in the transitional process in Libya, despite its vulnerability, and we trust that with the passage of time its progress will be consolidated and become more perceptible. We therefore trust that the upcoming elections will provide a sound basis for the reconstruction of a State that guarantees human rights, the rule of law and an end to impunity.

At the same time, we believe that it is of the greatest importance to continue our cooperation with the ICC and the Office of the Prosecutor. It is crucial that these bodies carry out their mandate with the necessary support and assistance that all States, including those that are not yet parties to the Rome Statute, must provide.

In all things, as Security Council members we must tread carefully. Our support must not turn into interference in the Court's decisions or into pressure. Guatemala is of the opinion that we must be careful in making any observation on the challenge of the Libyan Government regarding the admissibility of the case against Saif Al-Islam Al-Qadhafi. In that regard, although we appreciate the work done by the Office of the Prosecutor of the ICC in the case against that individual, we must view as positive the involvement of the Libyan authorities in the proceedings. We believe that it is a good sign that the Libyan authorities wish to demonstrate that their judicial system can meet this unique challenge.

In short, we believe that the Pre-Trial Chamber must take the decision on the challenge brought by the Government of Libya. However, whatever decision the Chamber reaches, we believe that the Office of the Prosecutor must remain informed on all steps and decisions taken in this matter.

Lastly, in regard to other crimes committed in Libya, our position is that investigations of violations of human rights and crimes against humanity in Libya must be pursued, regardless of their perpetrators. We are also concerned about the situation regarding gender crimes committed during the conflict, and we trust that the investigations of these will continue.

We also believe it essential, in order to support the rule of law in Libya, that all detention centres come under the control of the national security forces. It is unconscionable that these detention centres should remain under the control of groups not representing the Government of Libya and could be used by them as tools to violate human rights. We trust that such violations will be investigated and that the efforts to put an end to this situation will be supported. For its part, the Government of Libya must take specific actions to avoid cataloguing ethnic groups in order to violate their rights.

Mr. Loulichki (Morocco) (*spoke in Arabic*): I would like at the outset to express my deepest appreciation to Mr. Moreno-Ocampo, Prosecutor of the International Criminal Court (ICC), for his comprehensive and clear briefing on developments in the implementation of resolution 1970 (2011), concerning the prosecution of crimes committed in Libya since 15 February 2011.

The Libyan Transitional National Council has repeatedly expressed its commitment to establishing a democratic State that responds to the aspirations of all

segments of the brotherly Libyan people, enforces the rule of law and justice, and guarantees the rights of all. The Transition National Council has also expressed its commitment to investigating without discrimination all violations that have affected all Libyan citizens.

In this respect, from the outset the Transitional National Council contacted the ICC and has since cooperated with it. This cooperation was extended to the United Nations Commission of Inquiry sent to Libya and to the Prosecutor of the ICC during his visit in April, when he also met with high-level officials in Libya. The Libyan authorities have also repeatedly confirmed their support for the ICC and their readiness to continue their cooperation with it in order to guarantee justice for the victims. This is correctly reflected in the most recent report of the Prosecutor.

The Libyan authorities have also reaffirmed that the national justice system in Libya is capable of providing fair trials for all the accused. These trials would respect all international standards and allow the accused the right to self-defence, while at the same time allowing the Libyan people the right to know the truth and overcome the tensions of the past. Based on the principle of complementarity as established in the Rome Statute, in this case the priority of the Libyan national judicial system is established over the jurisdiction of the ICC.

The Libyan authorities have, as reaffirmed in the report of the Prosecutor, repeatedly stated that they will not protect or allow impunity for individuals who are shown to have committed crimes against humanity, and that they are in the process of carrying out effective and real investigations and of preparing for fair trials.

Therefore, the announcement of the Libyan authorities that they have fulfilled the requirements for admissibility, pursuant to the Rome Statute, and their willingness and desire to carry out fair and just national investigations and prosecutions fulfil international standards for preventing impunity. These requirements include respect for Libyan sovereignty and the achievement of justice by the Libyan national judicial authorities in respect for international standards; the holding of fair trials of those accused of widespread violations of human rights and providing remedies for the victims and their families; addressing the accumulated suffering of the past, including violations of human rights and international humanitarian law, and establishing a comprehensive strategy to deal with all crimes and to end impunity; and encouraging transitional justice to achieve national reconciliation to overcome the suffering of the past and build a better future.

In this context, we appreciate and commend the recent adoption of a transitional justice law in Libya and the formation of a fact-finding and reconciliation commission. We express our readiness to share with our brothers in Libya the experience of the fact-finding and reconciliation commission in Morocco and to help them avoid the recurrence of human rights violations.

The brotherly Libyan people have suffered for many decades from the suppression of their basic rights to a decent life and the exploitation of their national resources. Over these decades they have shown great patience and courage, as well as hope in a new dawn of liberty and dignity and rights. We are certain that the new Libya will be able to meet the aspirations of all segments of the Libyan nation and contribute thereby to the security and stability of the entire Maghreb region.

Mr. Mashabane (South Africa): At the outset, we would like to express our sincere gratitude to Mr. Luis Moreno-Ocampo for his progress report. In the same vein, we support the work of the Office of the Prosecutor and have a deep appreciation for the efforts of the International Criminal Court (ICC) to deliver justice to the victims of atrocities committed in Libya. These efforts are in line with our commitment to the fight against impunity for serious crimes.

South Africa supported resolution 1970 (2011), referring the situation in Libya to the International Criminal Court. We did so on the basis of our long-standing commitment to the fight against impunity for serious crimes. We do not support any effort or action that creates a perception of the Court being used for political expediency or as a tool for the furtherance of political objectives. It is for that reason that we continue to call for the Council to be principled on all cases in Libya that were referred to the International Criminal Court. We are mindful of the primacy of national jurisdiction, even in the case of the Libyan situation. In this regard, we have taken note of the formal submission presented by the Libyan authorities to the ICC. We look forward to the decision of the Court and we hope that there will be cooperation with whatever decision the Court reaches.

We reiterate our call for the investigation of crimes across the board, not focused only on the pro-Qadhafi forces, since that would perpetuate the perception of a victor's justice. We remain concerned about the political and security situation in Libya. However, we commend the Libyans for the steady progress they are making in their quest to build a democratic Libya based on equality, freedom and respect for human rights.

We urge the Libyan authorities to address the situation of detainees, in particular African migrants and black Africans suspected of having supported the regime of Muammar Al-Qadhafi. Their continued arbitrary detention and reports of torture do not bode well for efforts to build a society based on respect for human rights and dignity.

Mr. Eick (Germany): At the outset, I would like to thank the Prosecutor for his briefing and for his report to the Council. We are grateful for the continued efforts exerted by both the Prosecutor and the International Criminal Court (ICC) as a whole towards the implementation of resolution 1970 (2011). We continue to attach great importance to ensuring that atrocities committed in Libya do not remain unpunished. To that end, perpetrators must be identified and brought to justice.

That this objective is shared throughout the international community is evidenced by the impressive rate of cooperation by States with ICC requests for assistance that the Prosecutor has highlighted in his report. I would like to reassure the Prosecutor of Germany's readiness to support the ongoing investigations and to comply with any request for assistance.

Please allow me to comment briefly on a number of developments highlighted by the Prosecutor in his report.

First, Germany is pleased to note that Mr. Abdullah Al-Senussi has finally been apprehended and can now be held accountable for crimes against humanity under article 7 of the Rome Statute. While we note that several requests for his rendition are pending, we call on all concerned to ensure that Mr. Al-Senussi faces comprehensive proceedings covering all crimes allegedly committed by him during his many years as one of the most notorious strongmen of the Al-Qadhafi regime.

Secondly, Germany has been closely following developments regarding the situation of Mr. Saif Al-Islam Al-Qadhafi, as well as the question of jurisdiction in his case. We commend the Court's efforts to shed light on the legal and factual circumstances of Mr. Al-Qadhafi's detention. At the same time, we retain our great concerns regarding the fact that Mr. Al-Qadhafi remains in custody in Zintan and that his transfer to custody under the full authority of the Libyan authorities is still outstanding.

The other loose end in this matter concerns the issue of jurisdiction and the correct steps to be taken by the Libyan authorities in order to enable the Court to review the relevant Libyan submissions properly. We note that the Government of Libya has now filed a formal admissibility challenge under article 19.2 of the ICC Statute. Germany is fully confident that the Pre-Trial Chamber will examine this submission in a thorough and comprehensive manner, taking into account all relevant aspects, as well as the overall objective of ensuring that the principles of justice and due process are upheld.

Thirdly, I would like to highlight the importance of ensuring transitional justice and national reconciliation in Libya. We recognize the enormous challenges faced by the National Transitional Council in this regard, and we acknowledge the efforts undertaken so far. These include, inter alia, the continuing transfer of detainees to national control, the establishment of a fact-finding and reconciliation commission following the adoption of a transitional justice law, and the preparations for a comprehensive strategy to address all crimes and end impunity in Libya.

At the same time, we share the concerns expressed by the Prosecutor in his report. This applies specifically to the slow pace of arranging the transfer of control of detainees from militias and local authorities to the national authorities, and the screening of these detainees to determine as quickly as possible who must be released and who should be the subject of criminal investigations.

As the Prosecutor has noted in his report, the United Nations Commission of Inquiry, in March 2012, recorded the occurrence of enforced disappearances and torture in centres under the control of local military councils, and the collective targeting and punishment of whole communities for their perceived

allegiance to the Al-Qadhafi regime. We thus call on all those exerting factual power in Libya to adhere to applicable human rights standards and to refrain from all acts that reflect the dark sides of Libya's past, rather than its present and future as a fully accepted member of the international community.

Finally, I would like to thank the Prosecutor for the unambiguous findings in his report regarding NATO actions in Libya. These remarks are fully in line with what is well known: that NATO did not deliberately target civilians but rather took extensive precautions to ensure that no civilians were killed. Furthermore, NATO fully cooperated with the International Commission of Inquiry on Libya and provided a significant amount of information, much of which had to be declassified, to assist the Commission in its work.

Mr. Tatham (United Kingdom of Great Britain and Northern Ireland): Let me, too, thank the Prosecutor for his report on the situation in Libya. Libya is getting back on its feet. Civil society is flourishing and the economy is restarting with the approval of a national budget and the reopening of the stock market. Registration programmes for revolutionary fighters are being rolled out. The determination and sacrifice of the Libyan people have brought the prospect of the first democratic elections in more than a generation. The international community continues to play a role supporting the political transition, providing technical assistance to meet Libya's needs.

The Transitional Government and the National Transitional Council are leading the process of building a new, peaceful and prosperous Libya. Libya's leaders have consistently made clear their commitment to upholding the rule of law and human rights as part of a peaceful Libya, the wealth of which is shared among its people. We urge the Libyan authorities to ensure that they meet those public commitments.

In that regard, we welcome their close cooperation with the Commission of Inquiry of the United Nations Human Rights Council and the progress towards bringing detention facilities under Government control. To make further progress, the Libyan authorities should continue to screen all detainees and release those who are held without due cause. They should investigate and hold to account all those guilty of abuses and press forward with the implementation of the Commission of Inquiry's recommendations.

The international community recognizes the constraints on Libyan Government action after 42 years during which Al-Qadhafi hollowed out State institutions. We stand ready to provide assistance, including through the United Nations Support Mission in Libya.

As we have said before, the developments in Libya should give all Governments reason to pause before using violence against their own people. The international community will ensure that responsible individuals within such Governments are held to account, either in their own courts or international courts such as the International Criminal Court (ICC). Impunity is no longer tolerable.

The United Kingdom is a strong supporter of the ICC. We note the detailed work of the Prosecutor and his Office during visits to Libya over the past six months and thank him and his staff. Their efforts have played an important part in challenging impunity and bringing accountability to a country where it has been sadly lacking for some time.

We welcome Libya's continued cooperation with the ICC in relation to the arrest warrant issued against Saif Al-Islam Al-Qadhafi for suspected crimes against humanity. We note that the Libyan authorities have submitted an admissibility challenge setting out the ongoing Libyan investigations into his alleged crimes. We note with interest, as set out in the Prosecutor's report, the Libyan actions taken to investigate Saif's case. He must face justice before an independent court of law.

With regard to NATO, we emphasize the demonstrable lengths that NATO went to in order minimize the risk of civilian casualties, as recognized by both the Prosecutor's report and the report (A/HRC/19/68) of the Commission of Inquiry of 8 March. All NATO airstrikes were meticulously planned, including using precision guided munitions and intelligence surveillance and reconnaissance to strike legitimate military targets. NATO cooperated fully with the Commission of Inquiry report and has looked into each credible allegation of harm against civilians that has been brought to its attention.

The authorities of the United Kingdom have played a part in the ICC's investigation so far by

providing the fullest support to the Prosecutor and his team of investigators as and when requested. We would encourage Libya's neighbours to continue to cooperate with the ICC, including with regard to Abdullah Al-Senussi, who is being held in Mauritania.

Mr. Osorio (Colombia) (*spoke in Spanish*): Allow me to begin by extending my thanks to the Prosecutor of the International Criminal Court (ICC), Mr. Louis Moreno-Ocampo, for his third report on the implementation of the relevant part of resolution 1970 (2011) and for the additional information that he has provided the Council today. I would also like to take advantage of the opportunity to commend him for his dedication and untiring work for justice.

This report is a valuable updating on the state of the prosecution and proceedings, which started by means of the Council's referral to the Court pursuant to resolution 1970 (2011). We also appreciate the information that we have received on ongoing investigations that might lead to the opening of a second case with charges of gender crimes.

My delegation believes that a fundamental aspect at this stage is the provision of the necessary cooperation with the International Criminal Court by all actors involved, in compliance with the relevant provisions of resolution 1970 (2011). The Prosecutor's third report makes encouraging references to the positive attitude taken in that regard by States, be they parties or not to the Rome Statute, and by certain international bodies, such as INTERPOL and the United Nations Commission of Inquiry.

We note specifically that, with regard to the two sets of legal proceedings for crimes of murder and persecution on political grounds — the case against Saif Al-Islam Al-Qadhafi and the one against Abdullah Al-Senussi — the Libyan Government has acted to show its resolve to cooperate with the Court. Moreover, on several occasions, it has emphasized its intention to pursue fair and impartial national investigations and proceedings that meet the admissibility requirements of the Rome Statute.

The Government of Libya has also shown special diligence in the difficult task of the preservation of evidence, which is of vital importance at the trial stage, be that for national courts or the International Criminal Court. We commend that attitude. It is also our belief that the support of the international community and the provision of cooperation are essential for the Libyan authorities to remain on the established course, which would ensure that the serious crimes committed in Libya will not go unpunished.

With regard to the case against Saif Al-Islam Al-Qadhafi, we are following with great interest the development of the admissibility challenge that has been brought before the Court, which should be decided upon soon by a chamber of the Court. It is for that chamber to decide if the Libyan authorities are indeed investigating with due process and diligence the crimes against humanity of which Saif Al-Islam Al-Qadhafi stands accused. Regardless of the decision taken by the Court, in handing down its decision the Court will be acting in compliance with the principle of complementarity, which is the backbone of the criminal justice system embodied in the Rome Statute.

Mr. Wang Min (China) (*spoke in Chinese*): I listened very attentively to the briefing by Mr. Moreno-Ocampo.

At the moment, the political transition process in Libya has entered a critical phase. We hope that the Libyan people will maintain ethnic harmony and safeguard national unity, actively respond to all challenges and achieve at an early date its social stability and political and economic reconstruction.

Parliamentary elections will be held in Libya in June. That is of great significance in furthering the Libyan political transition process. China hopes that Libya's interim Government will, in accordance with the road map for its political process and timetable, steadily push forward the preparatory work on the elections.

The international community should continue to render support and assistance to the national reconstruction efforts in Libya. China's position on the International Criminal Court (ICC) question remains unchanged. We hope that the ICC's actions in implementing the relevant resolutions will be conducive to the reconstruction efforts in Libya. The resolution should be strictly implemented.

The reports of the International Commission of Inquiry on Libya established by the Human Rights Council and those of the International Criminal Court both indicate that NATO's activities in Libya resulted in civilian casualties. China is concerned about this. The Security Council has the right and obligation to know the truth.

Mr. Briens (France) (*spoke in French*): I would like to thank Prosecutor Moreno-Ocampo for his third report and for his presentation today. I would like to make four comments.

First, France was one of the sponsors of resolution 1970 (2011), which remains an example of the Council's capacity for unity and swift action and, more generally, that of the international community. Since mid-February 2011, given the atrocities committed by Libyan leaders, the League of Arab States, the African Union and the Organization of Islamic Cooperation have condemned the acts of violence committed by the Al-Qadhafi regime. On 26 February, resolution 1970 (2011) referred the situation in Libya to the Prosecutor of the International Criminal Court (ICC). That started a process that, by showing unambiguously and without hesitation the total isolation of the criminals, whatever their rank, allowed for thousands of lives to be saved. At a time when the Syrian authorities are pursuing violence against civilian populations, often including children, the Council must reiterate its message about the primacy of the rule of law and combating impunity in all circumstances.

Secondly, with regard to the work of the International Criminal Court, following the adoption of resolution 1970 (2011), the Prosecutor carried out his inquiry in a three-month period. On 16 May 2011, he submitted three requests for arrest warrants. On 27 June, the judges issued the warrants.

The International Criminal Court thereby showed its ability to act swiftly and to exert pressure on those who organized and committed atrocities. It also enabled us to understand the machinery of the violence in Libya. In that respect, the judicial decisions are edifying: the arrest warrants for crimes against humanity describe planned, systematic attacks against civilians and the methods — forced disappearances, arbitrary detention and torture — that were used to crush all forms of opposition to Muammar Al-Qadhafi. We have noticed that, more than a year after those events, the international community sometimes tends to forget history. Sometimes people tell us that Muammar Al-Qadhafi was apparently ready to negotiate and that the price paid to put an end to his crimes was too high. But the arrest warrants and the clarity with which they expose the orders given to torment civilians are there to prevent such a rewriting of history.

Given the atrocities, the international community and the Security Council are able to turn to an impartial, independent and permanent judicial body — and therefore immediately operational — in order to identify the main perpetrators of the crimes. In the light of the Libyan example, inaction is more inexcusable than ever.

Thirdly, on the follow-up of the process, in November 2011, the Prosecutor promised us an overall accounting of his activities. We have received it and we thank him for it. Muammar Al-Qadhafi was killed and two arrest warrants remain outstanding, one against Saif Al-Islam Al-Qadhafi and the other against Abdullah Al-Senussi. The Libyan authorities have asked to try Saif Al-Islam Al-Qadhafi themselves. It is a great tribute to that post-conflict country to want to shoulder its responsibilities in that way. It is even a lesson for other countries, such as the Sudan, which has never expressed the will to itself try the three people indicted by the ICC.

We welcome the fact that the Libyan Government has chosen to submit its admissibility challenge in full line with the Rome Statute. As the Prosecutor said, the final decision on Saif Al-Islam Al-Qadhafi will be up to the ICC's judges, whose decisions must be enforced. Libya's respect for its international obligations, in particular under the terms of resolution of 1970 (2011), is a key indicator of its commitment to the rule of law.

With regard to Al-Senussi, the Court has asked for his transfer, and France and Libya have asked for his extradition. We are awaiting a response from Mauritania.

The Prosecutor has also said that he would pursue his inquiry into allegations of gender-based crimes committed in Libya by Al-Qadhafi forces. We welcome the attention paid to the dignity of victims.

With regard to persons detained by militias, the Prosecutor referred to the report of the International Commission of Inquiry on Libya (A/HRC/19/68) and noted abuses that were committed. Like him, we encourage the efforts by Libyan authorities to transfer the detainees under their control. The Prosecutor also talked about Tawarghan civilians who were the target of violence in Misrata. We welcome discussions held with the Government on preparing a global strategy to bring an end to crimes and impunity in Libya.

With regard to crimes allegedly committed by NATO, the Prosecutor's report underscored that there was neither proof nor elements suggesting that NATO command intentionally planned or committed crimes against the civilian population.

With regard to the five cases of airstrikes identified by the Commission of Inquiry as having led to civilian losses, the Libyan Prime Minister undertook, here, before the Security Council, to carry out his own inquiry. NATO has said that it would offer its full support.

The process initiated by resolution 1970 (2011) must continue. Combating impunity is essential for a country like Libya that has embarked upon the path of the rule of law. Incidentally, the Council has just reaffirmed that proposition in resolution 2040 (2012), to which the Prosecutor made reference. Pursuing that process requires both the full cooperation of Libya with the Office of the Prosecutor and the full support of the Council, the Secretariat and the United Nations Support Mission in Libya for the work of the ICC.

Mr. Menan (Togo) (*spoke in French*): First of all, I would like to thank the Prosecutor of the International Criminal Court (ICC), Mr. Luis Moreno-Ocampo, for presenting his interim report pursuant to resolution 1970 (2011).

Togo welcomes the presentation of the report, which takes stock of the actions taken, in particular regarding the arrest and trial of those suspected of having committed crimes against humanity on Libyan territory from 15 February 2011 until the supposed end of the conflict. We welcome the cooperation that has been established between the Office of the Prosecutor and the Libyan Government to that end. The meetings held from 18 to 20 April between the Office of the Prosecutor and certain Libyan authorities are a tangible expression of that cooperation, the main objective of which is to gather sufficient evidence to establish the truth with a view to defending the rights of the victims of the crimes alleged.

To that end, we note the commitment of the Libyan authorities to carry out fair and impartial investigations and prosecutions in line with international standards in cases against Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi. The former is still being detained in Zintan by members of the militia that arrested him, and the former is still being detained in Mauritania, where he was apprehended.

We hope that the discussions between the Libyan authorities and the Office of the Prosecutor will provide a unique opportunity for the judicious implementation of the principle of complementarity in order to ensure fair trials in those cases. Togo hopes that after the 4 June deadline, the Court will have appropriate information to rule on the admissibility challenge that has been brought before it by the Libyan authorities.

My country is still concerned by the allegations of gender-based crimes, inter alia, wide-scale rape committed even in detention centres and hospitals during the conflict. It is clear that those crimes and gross violations of human rights were not solely committed by forces loyal to Al-Qadhafi. The successive reports of the International Commission of Inquiry on Libya impute those acts to militias and revolutionary groups as well, as was underscored, once again, by High Commissioner for Human Rights Navi Pillay during her briefing to Council on 25 January (see S/PV. 6707). We hope that the Libyan authorities and the Court will shed all possible light on those violations and identify the perpetrators so that they may account for their actions and justice may be rendered to the numerous battered victims.

On 10 May, during consultations on Libya, Togo, like many other countries before it, expressed its concern regarding the existence of numerous secret detention centres run by revolutionary brigades where acts of torture are apparently being committed against detainees. That information, which was already included in the report of the Commission of Inquiry (A/HRC/19/68), must prompt the competent Libyan authorities to take urgent action to find and dismantle those illegal centres. We would once again urge the United Nations Support Mission in Libya to assist the Libyan authorities in efforts along those lines.

Togo would like to take the opportunity afforded by today's meeting to welcome the cooperation that exists between the Court and the State parties and non-State parties to the Rome Statute, as well as with international organizations and non-governmental organizations, as part of the investigations of alleged crimes. With regard to the crucial question of cooperation between the ICC and African States, we hope that the recent visit from 8 to 11 May of Ambassador Tiina Intelmann, President of the Assembly of States Parties, to Addis Ababa, where she met senior officials of the African Union, will enable a

strengthening of ties so that the shared goal of combating the impunity of the perpetrators of heinous crime can be met.

Quality cooperation between the ICC and African States will allow for ambiguities regarding the principle of complementarity to be clarified. Discussions under way in order to possibly grant criminal jurisdiction to the African Court of Human and People's Rights can only be enriched by this.

Mr. Kumar (India): At the outset, I would like to thank the Prosecutor, Mr. Luis Moreno-Ocampo, for his briefing today. We have also taken note of his third report to the Security Council pursuant to paragraph 7 of resolution 1970 (2011).

India is not a signatory to the Rome Statute, and we have stated our views on the International Criminal Court (ICC) on several occasions. I will not repeat those well-known views.

The situation in Libya has changed significantly since the Prosecutor's previous report and briefing (see S/PV.6647) to the Security Council. The Libyan people are engaged in addressing the consequences of the conflict and building new institutions to meet their democratic aspirations. Meanwhile, the proliferation of weapons has emerged as a major problem posing a threat to stability in Libya and the larger region. The international community, including the Security Council and the ICC, should fully assist the Libyan people and authorities in this process. An inclusive, broad-based political process anchored in State sovereignty is the only way to achieve national reconciliation and overcome the multitude of problems that Libya is facing in the post-conflict phase.

Under these circumstances, we expect that the ICC Prosecutor will carry out a thorough and impartial investigation into all alleged crimes by all parties to the conflict in Libya. The Prosecutor must not be influenced by non-judicial considerations and must focus his attention solely on prosecution, without diversions due to extraneous considerations. All those responsible for committing crimes covered under the Rome Statute should be held accountable, irrespective of which side of the conflict they may belong to. Political or other non-judicial considerations should not exonerate anybody from prosecution for the crimes committed.

Last but not least, it is also important to ensure that all actions by the ICC Prosecutor fall strictly within the ambit of resolution 1970 (2011), particularly paragraph 6, which concerns States that are not parties to the Rome Statute.

The President: I shall now make a statement in my capacity as the representative of Azerbaijan.

At the outset, I would like to thank Mr. Moreno-Ocampo, Prosecutor of the International Criminal Court (ICC), for his briefing and for presenting his third report to the Security Council.

Azerbaijan is not a party to the Rome Statute of the International Criminal Court. Nevertheless, we proceed from the strong understanding that the protection of civilians, respect for international human rights and humanitarian law and the fight against impunity for the most serious crimes are the responsibility of the international community as a whole. Azerbaijan supports increased attention to these issues at the international level and underlines the importance of steps taken to protect civilians, vindicate rights and bring to justice those responsible for such crimes, regardless of their official status.

It is clear that the International Criminal Court's intervention in Libya at the height of the violence strengthened the people's resolve to stop crimes and ensure justice for victims. We welcome the ongoing fruitful cooperation of the ICC with the Libyan authorities and commend the Government's willingness to render all the necessary assistance to the Court in the course of its investigation.

Azerbaijan fully supports the National Transitional Council of Libya and its efforts towards restoring peace and stability in the country. We believe that, despite the challenges that Libya is facing in the complex post-conflict environment, the Government is capable of overcoming inherited problems, promoting national reconciliation and guaranteeing, within the national legal and judicial system, the effective protection and promotion of human rights and fundamental freedoms.

We note that the Government of Libya is investigating individuals for the same crimes, as well as additional ones, and for the same underlying conduct as the Office of the ICC Prosecutor. We also note that it committed to ensuring an effective and genuine investigation and fair trials consistent with the

highest international standards. We also welcome complementary efforts by the Government to address justice, including the adoption of a transitional justice law, and steps taken to address concerns expressed by the United Nations and both national and international non-governmental organizations.

Needless to say, due process for those detained must be ensured. It is therefore important that the Government managed to make progress towards extending its control over the known detention facilities across the country and over a number of detainees, and that it reiterated its commitment to close all unofficial and unacknowledged detention centres as quickly as possible and to take steps to curb maltreatment.

In conclusion, we commend the Libyan authorities for their commitment to investigate the incidents identified by the International Commission of Inquiry of the Human Rights Council. At the same time, we also look forward to the assessment by the Office of the ICC Prosecutor as to whether it should conduct its own investigation.

I now resume my functions as President of the Council.

I now give the floor to the representative of Libya.

Mr. Dabbashi (Libya) (*spoke in Arabic*): I would like, at the outset, to congratulate you, Sir, on your assumption of the presidency of the Security Council for this month. I am confident that your wisdom will serve to steer the Council towards achieving the best possible results.

Allow me to also thank Mr. Moreno-Ocampo, Prosecutor of the International Criminal Court (ICC), for his important briefing. I would like to take this opportunity to pay tribute to the efforts he and his team have made as part of the ICC's mandate to achieve justice and put an end to human rights violations and impunity. I would also like to commend his professionalism, which has helped Libyan authorities to make progress towards achieving justice and putting an end to impunity, which are the overarching goals that our authorities are striving to achieve, notwithstanding the grave challenges they face.

Furthermore, I would like to commend the intervention of the ICC in Libya at the height of the acts of suppression and murder that the Libyan people were subjected to, including its issuance of arrest warrants. Those efforts have strengthened the Libyan people's resolve to put an end to the crimes committed by the tyrant Al-Qadhafi and have served as an important step towards upholding the right to protection by combating impunity.

On 17 February 2011, the Libyan people rose up against the Al-Qadhafi regime in order to restore their rights and dignity and to achieve justice for all citizens after long decades of injustice, human rights violations and infringements of fundamental freedoms. Following the success of the revolution, Libyan authorities are aware of the importance of achieving justice and of building a new and democratic State. Moreover, they are aware of the close links among justice, human rights, national reconciliation, security and development. They therefore count justice among the top priorities and have undertaken the necessary judicial reforms, including adopting a law on the separation of powers between the executive and legislative branches, in accordance with the Constitutional Declaration and the principle of the independence of the judiciary. In addition, special courts were abolished and the judicial system was freed of corrupt judges. We can now safely say that the legal system is based on new foundations and is now ready to carry out fair and impartial trials that meet international standards.

The Libyan authorities have cooperated with the ICC and have provided it with witnesses and evidence, on the basis of which it issued arrest warrants against Muammar Al-Qadhafi, Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi. Both the Libyan Government and people appreciate the significant role that the Court can play in the absence of an effective national judiciary.

Libya has not taken any negative stand with regard to the Court, at either the official or the public level. However, the status quo on the ground has changed. It is therefore incumbent upon the Libyan Government to take that into account, in particular with regard to the following.

First, Libya's national judicial system has been reformed and is now ready to conduct transparent and fair trials that meet all safeguards provided for in international law, including the provision of defence counsel and the presence of international monitors and observers. Secondly, the internal situation in Libya is highly sensitive, and there is unanimous agreement

among the Libyan people on prosecuting senior officials of the former Libyan regime. Thirdly, Libya is not a party to the Rome Statute. The primary responsibility for addressing major crimes therefore falls to the national judiciary. In accordance with the Rome Statute, the role of the ICC is only complementary to that of the national judiciary. Fourthly, the ultimate purpose of trials is to achieve justice in accordance with internationally agreed principles and standards, irrespective of the venue of the trials or of who the judges are. Fifthly, on 8 January, the Libyan Prosecutor examined the serious crimes allegedly committed by Saif Al-Islam Al-Qadhafi. Moreover, the Military Prosecutor in Libya will further investigate the charges against Abdullah Al-Senussi.

In line with the points that I have just enumerated, on 1 May, the Libyan Government issued a request to the ICC contesting its hearing of the case of Saif Al-Islam Al-Qadhafi, in accordance with paragraph 2(b) of article 19 of the Rome Statute. The request asserted that the case was inadmissible owing to the fact that the Libyan judiciary was actively investigating the case and attempting to further clarify the criminal responsibility regarding the accusations against Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi. The charges pertained to crimes against humanity committed through large-scale attacks on Libyan civilians, including crimes committed before and after 15 January 2011.

Such a request only serves to underscore the fact that Libya's judicial authorities are adamant that the trials should be carried out in Libya. The trial documents, as well as the defendant and witness statements, are part of Libya's history. All Libyans are therefore eager that the trials should take place in Libya. The Libyan authorities look forward to receiving further support and cooperation from the Security Council and the ICC in order to hold the trials in Libya in accordance with international standards.

In that regard, I would also point out the concern expressed by some representatives with regard to Saif Al-Islam Al-Qadhafi not having a defence lawyer. I would like to assure the Council and others that Saif Al-Islam Al-Qadhafi will have a lawyer, since Libyan law does not permit the trial of any defendant in a criminal case without the presence of one. That issue is primarily up to Saif Al-Islam Al-Qadhafi, who, to date, has refused to appoint a lawyer to defend him. The matter is therefore in the hands not of the Libyan authorities, but of the defendant himself. However, there are no impediments to employing a lawyer to defend him.

With regard to the high number of detainees suspected of having committed crimes and the difficulty of trying all cases simultaneously, the Libyan judicial authorities decided to follow the provisions of the policy paper issued by the Office of the Prosecutor of the ICC, which stipulates the following:

> "As a general rule, the Office of the Prosecutor shall focus its resources of its investigative and prosecutorial efforts and resources on those who bear the greatest responsibility, such as the leaders of the State or organization allegedly responsible for those crimes."

In the first phase the investigations and trials will focus on Saif Al-Islam Al-Qadhafi and Abdullah Al-Senussi, as well as a number of political and security leaders, for example, Baghdadi Ali Al-Mahmoudi and Al-Tuhami Khaled, given the high level of the planning, organization and instigation associated with the crimes. As for the other cases, they will be dealt with through an integrated plan for transitional justice in a manner that will ensure that justice is served, impunity ended and national reconciliation, stability and social peace established.

The Libyan judicial authorities are aware of the importance of investigating the allegations that rebel forces committed torture and crimes against detainees, and will deal with them appropriately, bearing in mind the circumstances that prevailed at the time and their responsibility to respect human rights and avoid the practices of the former regime of the tyrant Al-Qadhafi, under which crimes committed by his forces and security people were allowed to occur with impunity.

As for the allegations about crimes committed against civilians by NATO forces in Libya, the Libyan authorities are firmly convinced that the strategies employed by the NATO leaders were designed merely to protect civilians from the violence aimed at them by the tyrant Al-Qadhafi's forces. Nevertheless, preliminary investigations have shown that some mistakes were made, as a result of which some civilians were killed. These, however, were the kind of errors that happen in all wars. According to statements and accounts by our military experts, there were fewer such errors than was expected, considering that in the

last month of the revolution the tyrant Al-Qadhafi was anxious to defend his leadership strongholds, especially in civilian areas and residential communities.

In all such cases, the Libyan authorities will further investigate individual incidents, which may rely on the cooperation of the NATO member States concerned if the need arises. When the investigations are completed, the Libyan authorities will take all necessary measures, including possibly providing compensation for those harmed. Overall, the Libyan national and local authorities intend to account for all who were killed or adversely affected during the revolution in order to learn more about the circumstances of their deaths or injuries and their whereabouts, irrespective of the side they were fighting on or whether they were civilians who had nothing to do with the fighting. Ultimately, the fate of all sons and daughters of Libya is an integral part of the country's history. The authorities and civil society organizations are therefore eager to record that history accurately and to address its consequences in a way that will secure the unity of the Libyan people and encourage them to overcome the past and focus on the future.

In conclusion, I would like to affirm that the Libyan authorities continue to make progress in controlling and monitoring the detention centres. They intend to transfer authority over all the detention centres to the central Government by the end of the year, the same deadline as that for dissolving all armed forces, so that the national army and police will take over the duties that the rebels are still currently carrying out.

The President: There are no more speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 1 p.m.